

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TODD LEE KINNAMON,

Plaintiff,

v.

C. CLAUSEN, et al.,

Defendants.

No. 1:23-cv-00168-ADA-CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION WITHOUT PREJUDICE FOR
FAILURE TO OBEY A COURT ORDER
AND FAILURE TO PROSECUTE

(ECF No. 11)

Plaintiff Todd Lee Kinnamon is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 27, 2023, this Court entered an order denying Plaintiff's application to proceed in forma pauperis and requiring Plaintiff to pay the \$402.00 filing fee. (ECF No. 8.) After Plaintiff failed to pay the filing fee, on May 2, 2023, the Magistrate Judge issued findings and recommendations, recommending that the Court dismiss this case without prejudice due to Plaintiff's failure to comply with a court order and failure to prosecute this case. (ECF No. 11.) Plaintiff filed objections on May 22, 2023. (ECF No. 12.)

In his objections, Plaintiff states that he is in a wheelchair as a result of an excessive force incident and that he is in imminent danger because he falls if he tries to walk. (*Id.* at 1.) He

1 further indicates that he is unable to pay the filing because he does not have a job in prison, and
2 he has no family who can help him pay the fee. (*Id.* at 2.) Notably, Plaintiff does not dispute
3 that he has three or more strikes within the meaning of 28 U.S.C. § 1915(g). Moreover, his
4 claim of imminent danger is conclusory and insufficient for him to proceed with in forma
5 pauperis status. *See White v. Colorado*, 157 F.3d 1226, 1231–32 (10th Cir. 1998); *Martin v.*
6 *Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003). Because Plaintiff has at least three strikes and has
7 not established that he faces imminent danger, the Court may not allow him to proceed in this
8 case unless he pays the filing fee. *See* 28 U.S.C. § 1915(g).


9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted
10 a de novo review of this case. Having carefully reviewed the entire file, the Court concludes that
11 the findings and recommendations are supported by the record and proper analysis.

12 Accordingly,

- 13 1. The findings and recommendations issued on May 2, 2023, (ECF No. 11), are
14 adopted in full;
- 15 2. This action is dismissed without prejudice for failure to obey a court order and
16 failure to prosecute; and
- 17 3. The Clerk of Court is directed to close this case.

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20 IT IS SO ORDERED.

21 Dated: October 25, 2023

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UNITED STATES DISTRICT JUDGE